

REFERENCE TITLE: tax expenditures; enactment requirement

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1105

Introduced by
Senator Garcia

AN ACT

AMENDING TITLE 42, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7;
RELATING TO REQUIREMENTS FOR TAX EXPENDITURES; PROVIDING FOR CONDITIONAL
ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 42, chapter 1, Arizona Revised Statutes, is amended
3 by adding article 7, to read:

4 ARTICLE 7. REQUIREMENT FOR TAX EXPENDITURES

5 42-1301. Vote required to enact, increase, decrease or repeal
6 tax expenditure: definition

7 A. AN ACT THAT PROVIDES FOR A NET INCREASE OR DECREASE IN STATE
8 REVENUES, IN THE MANNER DESCRIBED IN SUBSECTION B, IS EFFECTIVE ONLY ON THE
9 AFFIRMATIVE VOTE OF AT LEAST TWO-THIRDS OF THE MEMBERS OF EACH HOUSE OF THE
10 LEGISLATURE.

11 B. THIS SECTION APPLIES TO ANY ACT THAT PROVIDES FOR A NET INCREASE OR
12 DECREASE IN STATE REVENUES IN THE FORM OF:

13 1. A REDUCTION OR ELIMINATION OF A TAX EXPENDITURE IN COMPUTING TAX
14 LIABILITY.

15 2. AN ENACTMENT OF A NEW TAX EXPENDITURE.

16 3. AN INCREASE IN THE ALLOWABLE AMOUNT OF AN EXISTING TAX EXPENDITURE.

17 4. AN INCREASE IN THE NUMBER OF TAXPAYERS POTENTIALLY QUALIFYING FOR A
18 TAX EXPENDITURE.

19 C. EACH ACT TO WHICH THIS SECTION APPLIES SHALL INCLUDE A SEPARATE
20 PROVISION DESCRIBING THE REQUIREMENTS FOR ENACTMENT PRESCRIBED BY THIS
21 SECTION.

22 D. THE LEGISLATURE HAS THE SOLE RESPONSIBILITY OF DETERMINING WHETHER
23 A PROVISION OF LAW IS A TAX EXPENDITURE FOR PURPOSES OF THIS SECTION, AND
24 THAT DETERMINATION IS NOT SUBJECT TO JUDICIAL REVIEW.

25 E. FOR THE PURPOSES OF THIS SECTION, "TAX EXPENDITURE" MEANS ANY TAX
26 PROVISION IN STATE LAW THAT EXEMPTS, IN WHOLE OR IN PART, ANY PERSON OR
27 ENTITY, INCOME, GOODS, SERVICES OR PROPERTY FROM THE IMPACT OF EXISTING
28 TAXES, INCLUDING DEDUCTIONS, SUBTRACTIONS, EXCLUSIONS, EXEMPTIONS AND
29 CREDITS, BUT DOES NOT INCLUDE:

30 1. ANY TAX RATE STRUCTURE THAT FAVORS CLASSES OF TAXPAYERS IF IT
31 APPLIES GENERALLY AND CATEGORICALLY AND DOES NOT FAVOR PARTICULAR TAXPAYERS.

32 2. TAX EXPENDITURES IN THE ACT IF THE ACT IS SUBJECT TO ARTICLE IX,
33 SECTION 22, CONSTITUTION OF ARIZONA.

34 3. A DISTRIBUTION OR DISPOSITION OF TAX REVENUE THAT MAY BENEFIT A
35 PARTICULAR TAXPAYER, INCLUDING TAX REFUND PROVISIONS.

36 4. PROVISIONS OF LAW THAT PREVENT OR AVOID UNINTENDED CONSEQUENCES
37 FROM THE APPLICATION OF ACCOUNTING, LEGAL OR OTHER TECHNICAL REQUIREMENTS.

38 5. PROVISIONS OF LAW THAT REFLECT THE REQUIREMENTS OF THE CONSTITUTION
39 OR LAW OF THE UNITED STATES OR THE CONSTITUTION OF ARIZONA.

40 6. PROVISIONS OF LAW THAT EXEMPT GOVERNMENTAL ENTITIES AND ACTIVITIES
41 UNLESS THE ACTIVITY IS IN COMPETITION WITH PRIVATE ENTERPRISE.

42 7. PROVISIONS OF LAW THAT DEFER THE PAYMENT OF TAXES, IF THE FULL
43 AMOUNT OF THE TAX WILL ULTIMATELY BECOME DUE WITH INTEREST.

44 8. THE TERMINATION OF THE LEVY OF A TAX IF IT APPLIES GENERALLY AND
45 CATEGORICALLY AND DOES NOT FAVOR PARTICULAR TAXPAYERS.

1 Sec. 2. Conditional enactment

2 This act does not become effective unless the Constitution of Arizona
3 is amended by the people at the next general election to provide for the
4 passage of a bill with an affirmative vote of at least two-thirds of the
5 members of each house of the legislature for any bill that contains the
6 requirements described in section 1 of this act.